IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

LA.App. No. 932 of 2003
&
CROSS OBJECTION NO. 39 OF 2005

LAR.99/1998 of PRINCIPAL SUB COURT, NORTH PARAVUR
.....

APPELLANT/ ADDL.2ND RESPONDENT

KOCHI INTERNATIONAL AIRPORT SOCIETY
REP. BY ITS MANAGING DIRECTOR,
ANGAMALY.

BY ADV. SRI.N.N.SUGUNAPALAN, SC, KIAS LTD.

RESPONDENTS/CLAIMANT & 1ST RESPONDENT
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1. POULOSE, S/O.YOHANNAN, PYNADATH,
KEEZHPERIYARAM.

2. STATE OF KERALA,
REP. BY THE DISTRICT COLLECTOR -
ERNAKULAM DISTRICT, ERNAKULAM.

BY ADV. SRI.P.JACOB VARGHESE
SMT.V.A.GANGUJA
SRI.VIVEK VARGHESE P.J.
GOVERNMENT PLEADER SMT. K.R. DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

LA.App. No. 932/2003

Order on I.A. No. 626/2003 in LA.App. No. 932/2003

Dismissed.

	Sd/-	**Sd/-**
	KURIAN JOSEPH	**HARUN-UL-RASHID**
21.11.2007	**JUDGE**	**JUDGE**

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 932 OF 2003

&

CROSS OBJECTION NO. 39 OF 2005

Dated this the 21st day of November, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed by the requisitioning authority - Kochi International Airport Society against the judgment and decree in L.A.R. No. 99/1998 on the file of the Principal Sub Court, North Paravur. They are aggrieved since the land value is fixed at 96% over and above the value fixed by the Land Acquisition Officer. The claimant has filed a cross objection. According to the claimant, going by the report of the Advocate Commissioner filed in O.S. No. 194/1997, he is entitled to have an amount of Rs.60 lakhs for the value of the structures.

2. As far as the land value is concerned, in view of the judgment of this Court in L.A.A. 412/2001 , the claimant will be entitled to have the land value fixed only at 45% above the value fixed by the Land Acquisition Officer. As far as the value of structures is concerned, it is seen that the Land Acquisition

Officer fixed the value at Rs.23,19,600/-. On the basis of the evidence available in the case, finding that such value was insufficient, reference court granted further enhancement to the tune of Rs.6,95,880/-. The claim is for further enhancement to the tune of Rs 30 lakhs by way of value of structures.

3. It is seen that an identical issue was considered by this Court in L.A.A.No.295/2002. In both cases Section 4(1) notification was issued in the year 1994. However, in L.A.A. No. 295/2002, the suit was filed in the year 1996 whereas in the instant case it is in 1997. In view of the time gap between the notification and the suit, this Court deducted 15% from the assessment made by the Advocate Commissioner. In this case, the suit is filed in 1997 and it is brought to our notice that in similar cases this Court has adopted a method of deducting 30% from the value as assessed by the Advocate Commissioner. Following the same pattern, we hold that the cross objector shall be entitled to have the value of structures by deducting 30% from the value as assessed by the Advocate Commissioner in O.S. No. 194/1997 on the file of the Additional Sub Court, North Paravur.

Accordingly, the appeal and the cross objection are partly allowed. The judgment and decree will stand modified to the extent of:

1) As far as the land value is concerned, the claimant shall be entitled to have the value fixed only at 45% over and above the value fixed by the Land Acquisition Officer.

2) As far as the value of structures and machinery are concerned, the claimant shall be entitled to have the same fixed by deducting 30% of the value fixed by the Advocate Commissioner in O.S. No. 194/1997.

3) The cross objector shall be entitled to all eligible statutory benefits including interest on solatium.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 932 OF 2003
&
C.O. NO. 39 OF 2005

J U D G M E N T

21.11.2007